IN THE HIGH COURT OF UTTARANCHAL AT

NAINITAL

Civil Misc. Writ Petition No. 162 (S/S) of 2001

Smt. Deepa Mishra …… Petitioner

Versus

District Magistrate, Bageshwar
And two others. …… Respondents

……

Hon'ble P.C.Verma,J.

The petitioner seeks appointment under the Dying-in-Harness Rules. Her application is pending for disposal with the respondent No.1.

Learned counsel for the petitioner invited attention of this Court to the provision contained in Rule 30 of the U.P. Collection Amins' Service Rules, 1974, which provides that the subjects/topics, which are not specifically covered under these rules, shall be governed by the rules applicable to the Government servants. On the basis of this provision, learned counsel for the petitioner submits that since the petitioner's husband was a Collection Amin and he died in harness therefore, Dying-in-harness Rules are applicable and she is entitled for appointment. This proposition could not be disputed.

Learned counsel for the State raised an objection that the petitioner's husband was a seasonal collection Amin and he was working continuously in compliance of the order passed by the High Court in the case Umrao Singh and others versus District Magistrate, Nainital, as stated in the counter affidavit. Therefore being a seasonal collection Amin he does not fall within the definition of Government servant as defined under the Dying-in-Harness Rules. Therefore, the petitioner cannot be appointed.

The petitioner's husband was appointed in the year 1988 and became eligible to be regularized as regular collection Amin in the year 1992 in view of Rule 5 of the U.P.Collection Amins' Service Rules, 1974. It was alleged that the petitioner could not be considered for regularization by the authorities for which he had to file a writ petition and, accordingly the High Court passed the order for allowing the petitioner to work regularly. Under these facts and circumstances of the case, it cannot be said that the petitioner when died was not a regular Government servant and cannot be said to be a Government servant within the meaning of Government servant defined under the Dying-in-Harness Rules.

Therefore, the writ petition is allowed. The respondent No.1-District Masistrate, Bageshwar is directed to consider the case of petitioner for appointment under the Dying-in-Harness Rules within a period of one month from the date of production of certified copy of this order. No order as to costs.

28.08.2003
P.Singh

(P.C.Verma,J.)